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700 LAVACA, SUITE 800  
AUSTIN, TX 78701

EXAMINER
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HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/991,083	<b>Applicant(s)</b> DUREAU ET AL.	
	<b>Examiner</b> Farzana E. Hossain	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03-04-04, 04-19-02</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 14-16, 21-23, 26, 29-33, 38, 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Hirata (US 6,374,406).

Regarding Claim 1, Hirata discloses a method for recreating data at a remote location in a television (TV) system (Figure 1, 1-1) comprising: generating a message at a first location (Figure 1, 1-4, Figure 3), wherein the message identifies a first data (Figure 3); conveying the message (Figure 3); processing the message at the remote location (Figure 4, S3, S4, S5); recreating the first data at the remote location in response to processing the message (Figure 4, S5, S6).

Regarding Claim 21, Hirata discloses a client for use in a TV system (Figure 1, 1-1) comprising: a receiver configured to receive a programming signal (Figure 1, 1-1, Figure 3, Column 5, lines 55-64); an I/O interface; and a message processing engine

configured (Figure 4, 22a) to: receive a first data identifying a data item (Figure 3, Column 5, lines 55-60); receive a second data corresponding to user input (Figure 3, lines 48-50); and generate a message identify the data item in response to detecting the second data (Figure 3, lines 48-60);, wherein the message is configured to enable recreation of the data item at a remote location in response to being processed (Figure 4, S3-S6, Figure 11).

Regarding Claim 31, Hirata discloses a system for recreating data at a remote location in a TV system (Figure 1, Figure 3) comprising: a first device (Figure 1, 1-4, Figure 3) configured to generate a message in response to viewer input (Figure 3); wherein the message identifies a first data (Figure 3, Column 5, lines 55-60); a second device configure to receive (Figure 3, Figure 4, S3) and process the message (Figure 3, Figure 4, S4, S5, Figure 2, 22a); receive second data including the first data (Figure 3, lines 48-50); and capture the first data responsive to processing the message and detecting the first data within the received second data (Figure 3, Figure 4, S6, Figure 11, S95).

Regarding Claim 38, Hirata discloses a method for recreating data in a TV system (Figure 11) comprising: generating a message at a first location (Figure 1, 1-4, Figure 3), wherein the message identifies a first data (Column 5, lines 55-60); conveying the message to a remote database (Figure 2, 22c); storing the message in the database (Figure 4, S3, Figure 2, 22c), searching the database (Figure 11, S80); recreating the first data at a second location in response to identifying and accessing the message (Figure 11, S95).

Regarding Claims 2 and 22, Hirata discloses all the limitations of Claims 1 and 21 respectively. Hirata discloses that message comprise an edit list which identifies the first data (Columns 5, lines 55-60).

Regarding Claims 3, 23, and 32 Hirata discloses all the limitations of Claims 2, 22 and 31 respectively. Hirata disclose that the message comprises a target identifier (Column 5, lines 21-22) which identifies the remote location (Column 5, lines 21-22, Figure 1, 1-1, 1-4), wherein conveying the message comprises sending the message to the remote location (Figure 3, Figure 4).

Regarding Claim 4, Hirata discloses all the limitations of Claim 3. Hirata discloses that the message is generated by an individual viewer (Column 5, lines 14-17).

Regarding Claim 14, Hirata discloses all the limitations of Claim 1. Hirata discloses that recreating the first data comprises receiving a programming signal or program (Figure 3, Column 5, lines 55-60) and capturing the detected first data (Figure 11, S95).

Regarding Claim 15, Hirata discloses all the limitations of Claim 14. Hirata discloses that the first data is captured in response to detecting the programming signal or program corresponded to a predetermined time (Figure 11, S80).

Regarding Claim 16, Hirata discloses all the limitations of Claim 14. Hirata discloses that the first data is captured in response to detecting a first signal in the programming signal wherein the first signal or control signal indicates the first data is included in the programming signal or program (Figure 11, S84, S85).

Regarding Claim 26, Hirata discloses all the limitations of Claim 21. Hirata disclose that the message processing engine or CPU (Figure 2, 22a) is configured to access a mass storage device coupled to the client (Figure 2, 27) and wherein the message processing engine is configured to recreate the data item from data, which is stored on the mass storage device (Figure 2, 27).

Regarding Claim 29, Hirata discloses all the limitations of Claim 22. Hirata disclose that the message processing engine is further configured to receive a second edit list or receive multiple messages with edit lists (Figure 3), with a reply confirmation message indicating several edit lists (Figure 10), receive a signal (Figure 11, S84, S85), detect data within the signal which is identified by the second edit list or any edit list (Figure 11) and capture the detected data (Figure 11, S95).

Regarding Claim 30, Hirata and Ellis disclose all the limitations of Claim 22. Hirata disclose that a request for a reservation of a program (Figure 3) for a remote location and conveying the request to a remote location (Figure 3) and receiving the signal or program in response to the request (Figure 11).

Regarding Claim 33, Hirata discloses all the limitations of Claim 31. Hirata disclose that the first data corresponds to TV programming material (Column 5, lines 55-60).

Regarding Claim 39, Hirata discloses all the limitations of Claim 38. Hirata discloses that the first data and recreating the first data includes receiving the first data in response to a request (Figure 3, Figure 4, Figure 9).

3. Claims 35 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Klosterman et al (US 2005/0028201 and hereafter referred to as "Klosterman").

Regarding Claim 35, Klosterman discloses a system for recreating data at a remote location in a TV system (Figure 1) comprising: an operator configured to convey a plurality of edit lists (Figure 4b) and a broadcast signal (Pages 4-5, paragraph 0056) and a plurality of receiving devices coupled to receive the edit lists and the broadcast signal (Figure 1); wherein the edit lists identify the programming material (Figure 4b); and where each of the receiving devices are configured to process a received edit list (Pages 4-5, paragraph 0056) and receive programming material identified by the processed edit list (Pages 4-5, paragraph 0056).

Regarding Claim 37, Klosterman discloses all the limitations of Claim 35. Klosterman discloses that the operator is configured to generate a plurality of edit lists (Figure 4a, 420, Figure 4b, 470, Figure 5a, 520, Figure 5b, 570), each of which identify a different collection of programming material, wherein the operator is configured to make the generated edit lists available for access by members of a viewing audience (Figures 4a, 5a).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 7, 8, 17, 24, 28, 34, 35, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Ellis et al (US 2005/0028208 and hereafter referred to as Ellis).

Regarding Claim 35, Hirata discloses a system for recreating data at a remote location in a TV system (Figure 1, Figure 3, Figure 11) comprising: an operator or user configured to convey a plurality of edit lists (Figure 3) and a program (Column 5, lines 60-62) and a plurality of receiving devices coupled to receive the edit lists and the program (Figure 1, 1-1, 1-2, 1-3); wherein the edit lists identify the programming material (Figure 3, Columns 48-60); and where each of the receiving devices are configured to process a received edit list (Figure 2, 22a) and receive programming material identified by the processed edit list (Figure 11, S95). Hirata discloses that a program is being reserved for recording or recapture in TV environment (Column 5, lines 60-62). Hirata does not explicitly disclose that a broadcast signal is being conveyed. Ellis discloses a broadcast signal is being conveyed (Figure 2a, 2b, 2c, 2d, 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include a broadcast signal to be conveyed to receiving devices (Figures 2a, 2b, 2c, 2d, 16) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 5, Hirata discloses all the limitations of Claim 1. Hirata discloses that generating the message comprises a viewer to designate the time and channel in the message (Figure 3). Hirata is silent on tagging. Ellis discloses tagging



the program material or highlights the program material to be recorded (Figure 7, Figure 8, Page 10, paragraph 0115). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include tagging the program material (Figure 7, Figure 8) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 7, Hirata and Ellis disclose all the limitations of Claim 5. Ellis discloses that the program material is tagged as it is received via programming signal (Figures 2a, 2b, 2c, 2d, 16, 17, Figure 7, Figure 8).

Regarding Claim 8, Hirata and Ellis disclose all the limitations of Claim 5. Hirata discloses that the program material is stored in a mass storage device at the first location or using the remote access program guide to store or record the program at the remote device and accessing the data from the user's home device (Pages 11-12, Paragraph 0127).

Regarding Claim 17, Hirata discloses all the limitations of Claim 1. Hirata discloses making reservations for a particular program (Figure 3). Hirata is silent on generating a request for the data and conveying the request to a remote content server. Ellis discloses generating a request for the first data (Figure 7, Figure 8) and conveying the request to a remote content server (Figures 2a, 2b, 2c, 2d). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include generating a request for the first data (Figure 7, Figure 8) and conveying the request to a remote content server (Figures 2a, 2b, 2c, 2d) as taught

by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claims 24 and 42, Hirata discloses all the limitations of Claims 21 and 38 respectively. Hirata discloses that generating the message comprises a viewer to designate the time and channel in the message (Figure 3). Hirata is silent on tagging. Ellis discloses tagging the program material or highlights the program material to be recorded (Figure 7, Figure 8, Page 10, paragraph 0115). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include that the second data corresponds to a tag generated by the user (Figure 7, Figure 8) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 28, Hirata discloses all the limitations of Claim 21. Hirata discloses that the message processing engine accessing the remote location (Figure 2, 22a, Figure 3). Hirata is silent on the message processing engine configured to access a remote location, search for a desired edit list and access the desired list. Ellis discloses the message processing engine configured to access a remote location (Figure 5, 54, Figures 6a, 6b), search for a desired edit list (Figures 7, 8 and Page 8, paragraph 0099) and access the desired list (Page 8, paragraph 0099). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include message processing engine configured to access a remote location (Figure 5, 54, Figures 6a, 6b), search for a desired edit list (Figures 7, 8

and Page 8, paragraph 0099) and access the desired list (Page 8, paragraph 0099) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR remotely (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 34, Hirata discloses all the limitations of Claim 31. Hirata is silent of on the remote content server. Ellis discloses that the remote content server (Figures 2a, 2b, 2c, 2d, 16) is coupled to the second device (Figures 2a, 2b, 2c, 2d, 22) and the second device is further configured to generate a request for the second data (Page 8, paragraphs 0099-0100), and wherein the second data is conveyed from the remote content server to the second device in response to the request or recording the program signal due to the selection of the first device and request from the second device (Page 9, paragraph 0103). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include remote content server (Figures 2a, 2b, 2c, 2d, 16) is coupled to the second device (Figures 2a, 2b, 2c, 2d, 22) and the second device is further configured to generate a request for the second data (Page 8, paragraphs 0099-0100), and wherein the second data is conveyed from the remote content server to the second device in response to the request or recording the program signal due to the selection of the first device and request from the second device (Page 9, paragraph 0103) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR remotely (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 40, Hirata discloses all the limitations of Claim 39. Hirata does not explicitly disclose receiving the first data or program from a third location. Ellis

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discloses receiving the first data or program from a third location (Figures 2a, 2b, 2c, 2d, 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include receiving the first data or program from a third location (Figures 2a, 2b, 2c, 2d, 16) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

Regarding Claim 41, Hirata and Ellis disclose all the limitations of Claim 40. Hirata is silent on a TV broadcast signal. Ellis discloses a TV broadcast signal (Figure 2a, 2b, 2c, 2d, 16).

6. Claims 6, 25, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Ellis as applied to claim 5 and 42 above, and further in view of Maissel et al (US 2003/0088872 and hereafter referred to as "Maissel").

Regarding Claims 6 and 43, Hirata and Ellis disclose all the limitations of Claims 5 and 42 respectively. Hirata and Ellis are silent on the two or more selected portions of a program. Maissel discloses a first data that comprises two or more selected portions of the program or program material (Figure 10A, Page 18, paragraph 0297, Page 20, paragraph 0341). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Ellis to include first data that comprises two or more selected portions of the program or program material (Figure 10A, Page 18, paragraph 0297, Page 20, paragraph 0341) as taught by Maissel

in order to provide an more efficient means of recording, editing and retrieval of selected portions of a movie (Page 2, paragraphs 0034-0035) as disclosed by Maissel.

Regarding Claim 25, Hirata and Ellis disclose all the limitations of Claim 22. Hirata and Ellis are silent on the two or more selected portions of a program. Maissel discloses a message with addressable program with two or more selected portions of the program or program material (Figure 10A, Page 18, paragraphs 0294, 0297, Page 20, paragraph 0341). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Ellis to include message with addressable program with two or more selected portions of the program or program material (Figure 10A, Page 18, paragraphs 0294, 0297, Page 20, paragraph 0341) as taught by Maissel in order to provide an more efficient means of recording, editing and retrieval of selected portions of a movie (Page 2, paragraphs 0034-0035) as disclosed by Maissel.

7. Claims 9, 11, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Klosterman.

Regarding Claim 9, Hirata discloses all the limitations of Claim 2. Hirata is silent on the message generated by an operator. Klosterman discloses that the message is generated by an operator (Figure 4b, Pages 4-5, paragraph 0056). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include the message is generated by an operator (Figure 4b, Pages 4-5, paragraph 0056) as taught by Klosterman in order to provide a convenient way to

use the program guide as well have valuable services including promotions (Page 1, paragraph 0004) as disclosed by Klosterman.

Regarding Claim 11, Hirata and Klosterman disclose all the limitations of Claim 9. Hirata is silent on the operator. Klosterman discloses the operator makes the message available for access by members of a viewing audience (Figure 4a), and wherein the individual audience members determine whether or not to access the message (Figure 4b).

Regarding Claim 19, Hirata discloses all the limitations of Claim 2. Hirata discloses making reservations for a particular program (Figure 3). Hirata is silent on the message stored at location accessible by plurality of viewers. Klosterman discloses the message is conveyed for storage at a location can be accessible by a plurality of viewers (). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata to include generating a request for the first data (Figure 7, Figure 8) and conveying the request to a remote content server (Figures 2a, 2b, 2c, 2d) as taught by Ellis in order to allow a user to program the VCR for someone who does not know how to program the VCR (Page 2, paragraph 0019) as disclosed by Ellis.

8. Claims 10, 13, 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Klosterman as applied to claim 9 above, and further in view of Ellis et al (US 2003/0020744 and hereafter referred to as Ellis2).

Regarding Claim 10, Hirata and Klosterman disclose all the limitations of Claim 9. Hirata and Klosterman are silent on determining which members of viewing audience are to receive the message and send it to them. Ellis2 discloses determining which members of viewing audience are to receive the message (Pages 10-11, paragraphs 0107, 0109, 0111, Figures 21-24), and conveys the message to those members (Figures 21-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Klosterman to include determining which members of viewing audience are to receive the message (Pages 10-11, paragraphs 0107, 0109, 0111, Figures 21-24), and conveys the message to those members (Figures 21-24) as taught by Ellis2 in order to provide a customized program guide to the user (Page 1, paragraphs 0008, 0010) as disclosed by Ellis2.

Regarding Claim 13, Hirata and Klosterman disclose all the limitations of Claim 9. Klosterman discloses sending messages to the viewer (Figures 4a, 4b). Hirata and Klosterman are silent on profiles. Ellis2 discloses the operator sending messages (Page 6, paragraph 0067) which are configured to recreate particular programming (Page 13, paragraph 0122) and wherein in each of the messages are conveyed to particular audience members identified by the operator as fitting a profile corresponding the message conveyed to the particular audience member (Page 13, paragraph 0122, Figures 21-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Klosterman to include the operator sending messages (Page 6, paragraph 0067) which are configured to recreate particular programming (Page 13, paragraph 0122) and wherein in each of the

messages are conveyed to particular audience members identified by the operator as fitting a profile corresponding the message conveyed to the particular audience member (Page 13, paragraph 0122, Figures 21-24) as taught by Ellis2 in order to provide a customized program guide to the user (Page 1, paragraphs 0008, 0010) as disclosed by Ellis2.

Regarding Claim 18, Hirata, Klosterman, and Ellis2 disclose all the limitations of Claim 13. Klosterman discloses that the program is received in response to a request or the user requests the first data or program (Figures 4a, 4b).

Regarding Claim 20, Hirata, Klosterman, and Ellis2 disclose all the limitations of Claim 13. Hirata discloses the searching an edit list catalog (Figure 11, S80, Figure 10, Column 9, lines 31-34), identifying the message (Figure 11, S80, Figure 10, Column 9, lines 31-34) and accessing the message (Figure 11, S80).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Klosterman as applied to claim 9 above, and further in view of Herz et al (US 5,758,257 and hereafter referred to as "Herz").

Regarding Claim 12, Hirata and Klosterman disclose all the limitations of Claim 9. Klosterman discloses that an edit list is received by the viewing audience. Hirata and Klosterman are silent on a virtual channel. Herz discloses that the edit list or scheduled programming is received by a member of the viewing audience (Column 25, lines 49-63); the edit is list is utilized to generate a virtual programming channel at the member's locations (Figure 2, Column 25, lines 49-67, Column 26, lines 1-21). Therefore, it would



have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Klosterman to include edit list is received by a member of the viewing audience (Column 25, lines 49-63), the edit is list is utilized to generate a virtual programming channel at the member's locations (Figure 2, Column 25, lines 49-67, Column 26, lines 1-21) as taught by Herz in order to provide customized programming to the customer and to minimize channel surfing (Column 2, lines 65-67, Column 3, lines 1-15) as disclosed by Herz.

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata in view of Ellis and Maissel as applied to claim 25 above, and further in view of Herz.

Regarding Claim 27, Hirata, Ellis, and Maissel disclose all the limitations of Claim 25. Hirata discloses a message processing engine (Figure 2, 22a). Ellis discloses that an edit list is received by the viewing audience (Figure 7, 8). Hirata, Ellis, and Maissel are silent on a virtual channel. Herz discloses that message processing engine (Figure 9, 906) in order to generate a virtual programming channel with programming based on the edit list (Figure 2, Column 25, lines 49-67, Column 26, lines 1-21, Column 45, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hirata in view of Ellis and Maissel to include message processing engine (Figure 9, 906) in order to generate a virtual programming channel with programming based on the edit list (Figure 2, Column 25, lines 49-67, Column 26, lines 1-21, Column 45, lines 34-55) as taught by Herz in order to provide

customized programming to the customer and to minimize channel surfing (Column 2, lines 65-67, Column 3, lines 1-15) as disclosed by Herz.

11. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Ellis2.

Regarding Claim 36, Klosterman discloses all the limitations of Claim 35. Klosterman discloses an operator (Pages 4-5, paragraph 0056). Klosterman is silent on particular members of the viewing audience. Ellis2 discloses that the operator conveys messages to the viewer or receiving device(s) (Page 6, paragraph 0067). Ellis2 discloses that the operator or server is configured to identify particular viewing audience member corresponding to each of the receiving device which conform to a particular profile (Page 13, paragraph 0122, Figures 21-24) and wherein the operator or server is configured to generate an edit list corresponding to that profile or recommendations for recording (Figures 21-24) and convey the edit list to those particular audience members (Figures 21-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman to include operator or server is configured to identify particular viewing audience member corresponding to each of the receiving device which conform to a particular profile (Page 13, paragraph 0122, Figures 21-24) and wherein the operator or server is configured to generate an edit list corresponding to that profile or recommendations for recording (Figures 21-24) and convey the edit list to those particular audience members (Figures 21-24) as taught by

Ellis2 in order to provide a customized program guide to the user (Page 1, paragraphs 0008, 0010) as disclosed by Ellis2.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Franco (US 2002/0046407), Marolda (US 2003/0009766), and McKissick et al (EP 1 458 193 A2 and hereafter referred to as "McKissick").

Franco discloses a user browsing program listings and selecting content to programming for recording at a remote location (Figure 1).

Marolda discloses a peer to peer scheduling system (Figure 2) which allows friends or buddies on a list to schedule recordings from remote locations (Figure 2) and an email notifications or message sent to the recipient (Page 2, paragraphs 0022) if the scheduler is authorized which is determined by the service provider who maintains a buddy list (Page 3, paragraphs 0032).

McKissick discloses a user system (Figure 1A, 20) that can send messages to other users that are authorized (Figure 6A, 435) and have a profile with favorite programs and channels (Figure 6A, 425, 430).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-

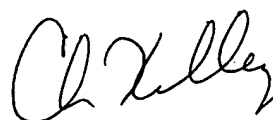
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272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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